

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER DIVISION**

P.O. BOX 1105

Richmond, VA 23218

**Subject:** Guidance Memo 14-2015. TMDL Waste Load Allocation Modifications in Response to New, Expanding, or Relinquished Discharges

**To:** Regional Directors

**From:** Melanie D. Davenport, Director 

**Date:** September 26, 2014

**Copies:** James Golden, Jeff Steers, Fred Cunningham, Allan Brockenbrough, Water Permit Managers, Watershed Program Staff, Cindy Berndt, Joey O'Quinn (VA DMME)

**Summary:**

Permits issued for facilities with waste load allocations developed as part of a Total Maximum Daily Load (TMDL) must be consistent with these waste load allocations (WLA), as per EPA regulations. In cases where a new permit or proposed permit modification is affected by a TMDL WLA, permit and TMDL staff must coordinate to ensure that new or expanding discharges meet this requirement. This guidance describes the available options and the process that should be followed under those circumstances, including public participation, EPA approval, State Water Control Board actions, and coordination between permit and TMDL staff.

This guidance supersedes DEQ Guidance Memorandum GM05-2011: *TMDL Modifications in Response to New or Expanding Discharges*.

**Electronic Copy:**

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET, and for the general public on DEQ's website at: <http://www.deq.virginia.gov>.

**Contact information:**

For additional information regarding TMDLs, please contact Elizabeth McKercher, Watershed Program Manager, at (804) 698-4291 or at [elizabeth.mckercher@deq.virginia.gov](mailto:elizabeth.mckercher@deq.virginia.gov).

For additional information regarding water permits, please contact Allan Brockenbrough at (804) 698-4147 or at [allan.brockenbrough@deq.virginia.gov](mailto:allan.brockenbrough@deq.virginia.gov).

**Disclaimer:**

**This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate or prohibit any particular action not otherwise required or prohibited by law or regulation. If alternative proposals are made, such proposals will be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.**

# TMDL Modifications in Response to New or Expanding Discharges

## I. Background

Since 1999, Virginia has been developing Total Maximum Daily Loads (TMDLs) for a number of pollutants. EPA regulations (40 CFR §130.7) require that an approvable TMDL include individual waste load allocations (WLAs) for each point source permitted to discharge the pollutant of concern, or in some cases, categories of point sources. EPA also requires storm water discharges from permitted entities be assigned a waste load allocation (WLA) for inclusion in TMDLs (EPA 2002). As per EPA, all WLAs must be expressed in terms of loading (e.g., mass/year for sediment, cfu/year for bacteria). Therefore, any increase in flow (average or long-term design capacity) due to a new or expanding permitted facility may result in a discharged load exceeding the facility's waste load allocation. This document is intended to inform staff on the considerations necessary for incorporating new, expanding, or relinquished "traditional" discharges in bacteria, nutrient, and sediment TMDLs. Other pollutant types, such as PCBs or toxics, should be evaluated on a case by case basis and are thus excluded from this guidance.

## II. Objective

This document describes the available options and the processes that should be followed regarding new, expanding, or relinquished "traditional" discharges into TMDL watersheds. Traditional permitted discharges exclude Municipal Separate Storm Sewer Systems (MS4s) and Combined Sewer Overflows (CSOs)<sup>1</sup>. The guidance includes recommendations for public participation, EPA approval, State Water Control Board actions, and coordination between Permit and TMDL staff.

## III. Procedure

There are six options available to process a permit for a new or expanding facility discharge that is affected by a TMDL WLA. In all cases, the permit staff and the TMDL staff will coordinate activities to ensure that no permit is issued that is not consistent with the TMDL.

### A. Maintain Existing TMDL Permit WLA

For an expanding discharge with an individual VPDES permit that meets the existing TMDL Permit WLA, no modification to the TMDL's overall WLA value is required.

1. This is available only for expanding dischargers with individual VPDES permits (i.e., not applicable to general permits or new discharges).
2. The permit modification can be processed while maintaining the existing TMDL WLA, e.g., by reducing concentration limits in the permit to account for increasing flow.

### B. Maintain Existing TMDL Overall WLA Using Future Growth Allocations

Future Growth is an important part of the TMDL equation's waste load allocation and is established to accommodate new and expanding discharges in the watershed. For new or expanding general and individual VPDES permits that consume existing Future Growth allocations, no TMDL report modification or change to the overall TMDL equation is required. Use of the Future Growth allocation (part of the overall WLA) **does not** require notification of Region III EPA TMDL staff. However, tracking of the

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<sup>1</sup> Because permits for MS4s and CSOs do not contemplate "end of pipe" compliance with water quality criteria, additional evaluations and public process are required before these may be incorporated into the TMDL.

remaining Future Growth allocation and the permit WLA using DEQ's Comprehensive Environmental Data System (CEDs) TMDL<sup>2</sup> database is required.

The process for tracking the use of Future Growth in CEDs TMDL is as follows:

1. For **new permits**, add the facility to CEDs TMDL as follows:
  - a. Navigate to the CEDs TMDL Equation screen and select "Add New" above permit grid. This opens the CEDs TMDL Permit screen;
  - b. Enter the basic information for the permitted facility;
  - c. Enter the "Base WLA" and "Current WLA". "Base WLA" = 0 for newly added permits. "Current WLA" = WLA for new facility discharge;
  - d. Because the watershed has a Future Growth allocation, the "Interim Action" field is not applicable and staff will select "no" from the dropdown on the CEDs TMDL Permit screen.
2. For changes to **existing permit** WLAs, update CEDs TMDL as follows:
  - a. Locate the permit record in CEDs TMDL;
  - b. Enter the new WLA into the "Current WLA" field. The "Base WLA" field does not change;
  - c. Because the watershed has a Future Growth allocation, the "Interim Action" field is not applicable and staff will select "no" from the dropdown on the CEDs TMDL Permit screen.
3. After any permit addition or change, navigate back to the CEDs TMDL Equation screen and enter the new "*Calculated Current WLA*" total value into the equation's "Current Permitted WLA" field.
4. Review the change to the Future Growth allocation. The remaining Future Growth allocation will be automatically calculated (decreased) and displayed in the "*FG Remaining*" field on the CEDs TMDL Equation screen.
5. Process the permit. For individual VPDES permits, the permit fact sheet and/or supporting documentation identifies the Future Growth allocation needed and states that the WLA for the permit was obtained from the Future Growth allocation of the TMDL.

When waste load allocations are relinquished due to permit termination, the relinquished WLA should be assigned to Future Growth in CEDs TMDL. *The steps to assign a relinquished waste load allocation to the Future Growth allocation in CEDs TMDL are as follows:*

1. On the CEDs TMDL Permit screen, update the "Current WLA" field with the value of the permit's relinquished waste load. The "Base WLA" field does not change. Staff will select "no" from the dropdown for the "Interim Action" field.
2. After the permit's waste load is altered or removed, navigate back to the CEDs TMDL Equation screen and enter the new "*Calculated Current WLA*" total value into the equation's "Current Permitted WLA" field.
3. Review the change to the Future Growth allocation. The remaining Future Growth will be automatically calculated (increased) and displayed in the "*FG Remaining*" field on the CEDs TMDL Equation screen to reflect the reassignment of the relinquished permit waste load to the Future Growth allocation.

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<sup>2</sup> CEDs TMDL is available to DEQ staff at the following link: <http://ecmiis/CEDS/login.aspx>. The CEDs TMDL Technical Manual is located at TMDL Working Drive:\Regions\CO\TMDL Module Technical Manual.

### C. Bacteria TMDLs Without a Future Growth Allocation: Maintain Water Quality Standards with Increases to the TMDL WLA

For bacteria TMDLs with no explicit Future Growth allocation or where Future Growth allocation has been depleted, issuance of most individual permits and general permit registrations which involve bacterial discharges **may proceed** without a TMDL modification or notification of Region III EPA TMDL staff provided a) **the permit/registration is consistent with water quality standards for bacteria**<sup>3</sup>, and b) **the watershed is not effluent dominated** (i.e., WLA > LA)<sup>4</sup>. In effluent dominated streams, the concentration of bacteria in the expanded discharge may have a direct relationship to the bacteria concentration in the waterbody. In non-point source dominated systems, DEQ has found that discharges which meet water quality standards generally dilute the non-point source loadings of bacteria in the receiving stream.

DEQ TMDL staff must track new permits and revisions to WLAs for existing permits in CEDS TMDL as follows.

1. For **new permits** added to the TMDL equation, update CEDS TMDL:
  - a. On the CEDS TMDL Equation screen, select “Add New” above permit table. This opens the CEDS TMDL Permit screen. Enter the basic information for the permitted facility;
  - b. Enter the “Base WLA” and “Current WLA”. “Base WLA” = 0 for newly added permits. “Current WLA” = WLA for the new facility discharge;
  - c. Select YES in the “Interim Action” field to indicate that the newly added permit is being tracked internally without any formal TMDL modification.
2. For **changes to existing permit WLAs**, update CEDS TMDL:
  - a. On the CEDS TMDL Permit screen for the existing permitted facility, update the “Current WLA” field with the revised value for the permit’s wasteload. The “Base WLA” field does not change;
  - b. Select YES in the “Interim Action” field to indicate that the revised permit is being tracked internally without any formal TMDL modification.
3. After any permit addition or change, navigate back to the CEDS TMDL Equation screen and enter the new “*Calculated Current WLA*” total value into the equation’s “Current Permitted WLA” field.
4. Process the permit<sup>5</sup>. For individual VPDES permits the permit fact sheet and/or supporting documentation should indicate that the permit is being issued in compliance with water quality standards for bacteria (EPA 2013).

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<sup>3</sup> This language is consistent with current EPA practice which allows new and expanding discharges in bacteria watersheds as long as the permit is consistent with water quality standards for bacteria. For reference, please see page 66 of the Pine Creek bacteria TMDL: [http://www.epa.gov/reg3wapd/tmdl/pa\\_tmdl/PineCreek/BacterialPineCreekDraftTMDL.pdf](http://www.epa.gov/reg3wapd/tmdl/pa_tmdl/PineCreek/BacterialPineCreekDraftTMDL.pdf). Also reference Attachment A, EPA’s 2013 letter to VADEQ on their revised procedure for review of individual permits in waters impaired for bacteria.

<sup>4</sup> DEQ TMDL staff are in the process of evaluating the applicability of this guidance to effluent dominated streams. Following the results of the evaluation, the guidance will be updated to include specific recommendations for such instances.

<sup>5</sup> Part A of the Water Quality Management Regulation will be footnoted to indicate that bacteria WLAs can be increased without a modification of the Regulation provided DEQ staff follow the tracking process outlined in section C of this guidance document.

When permits are tracked as indicated above, the CEDS TMDL Equation screen provide staff with an up-to-date view of the cumulative impact of the interim permits relative to the overall TMDL in the “*Calculated Interim % of TMDL*” field.

Although permits will continue to be issued, as the *Calculated Interim % of TMDL* value reaches 10% of the TMDL<sup>6</sup> regional TMDL staff are encouraged to review the TMDL to determine if a modification is appropriate. To modify a TMDL, follow [steps E.1-7](#) below.

#### **D. Non-bacteria TMDLs without a Future Growth Allocation: Maintain Water Quality Standards with increases to the TMDL WLA.**

For non-bacteria TMDLs without a Future Growth allocation, and for watersheds that are not effluent dominated, staff may address increases to general and individual permits as described below.

##### **1. General permits in non-bacteria TMDL watersheds**

New or expanding facilities with coverage under a general permit do not require a TMDL modification until such time that their aggregate load becomes significant (i.e., cumulative increase that is greater than 1% of the TMDL)<sup>7</sup>. Regional staff may issue the general permit coverage by following these procedures:

Track in CEDS TMDL the increase in WLA resulting from a new or expanding general permit discharge.

- a. For **new permits** added to the TMDL Equation, update CEDS TMDL:
  - i. Select “Add New” above permit table and enter the basic information for the permitted facility;
  - ii. Enter the “Base WLA” and “Current WLA”. “Base WLA” = 0 for newly added permits. “Current WLA” = WLA for the new facility discharge;
  - iii. Select YES in the “Interim Action” field to indicate that the newly added permit is being tracked internally without any formal TMDL modification.
- b. For **changes to existing permit WLAs**, update CEDS TMDL:
  - i. On the CEDS TMDL Permit screen for the existing permitted facility, update the “Current WLA” field with the revised value for the permit’s wasteload. The “Base WLA” field does not change;
  - ii. Select YES in the “Interim Action” field to indicate that the revised permit is being tracked internally without any formal TMDL modification.
- c. After any permit addition or change, navigate back to the CEDS TMDL Equation screen and enter the new “*Calculated Current WLA*” total value into the equation’s “Current Permitted WLA” field.
- d. Process the coverage under the general permit.

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<sup>6</sup> Many literature sources describe the findings of uncertainty analyses for Hydrological Simulation Program – Fortran (HSPF) applications used to develop bacteria TMDLs. The general findings indicate the hydrologic modeling may result in an uncertainty factor of between 2 and 10% (Mishra, 2011; Yanbing and Culver, 2008; Desia et al, 2011).

<sup>7</sup> Sediment and nutrient TMDLs are developed using reference watersheds and the Generalized Watershed Loading Function (GWLF) model. The modeling process using GWLF does not require any calibration and validation using time series data and, therefore, the accuracy of the model cannot be ascertained for specific applications. The limited number of parameters, average conditions for source data (e.g. nutrient concentrations in groundwater) and applied TMDL targets based on a reference watershed suggest that the 1% threshold is reasonably assumed.

- e. Track the cumulative impact on the overall TMDL equation. In CEDS TMDL, Regional TMDL staff must monitor the cumulative TMDL WLA changes which reach or exceed 1% of the TMDL (aka significance threshold). Such exceedances of the 1% significance threshold require consideration for remodeling the temporal and spatial pollutant loading impacts. Regional staff may work with the Central Office TMDL Modeling Coordinator to determine the appropriate process for addressing the TMDL revision (whether modifying or remodeling).
  - For a TMDL modification, follow [steps E. 1-7](#) below.
  - To remodel the TMDL, follow [steps F.1-3](#) below.

## 2. **Individual permits in non-bacteria TMDL watersheds**

Individual permit issuances or reissuances that result in a) additional nonpoint source reductions or b) an overall increase to the TMDL waste load allocation require a TMDL modification. The original basis for this procedure is outlined in a letter sent by EPA Region III to DEQ in August 2003 (Attachment B). The TMDL and the permit revision must be public noticed and a public meeting shall be held<sup>8</sup>.

### **E. Modification of the TMDL**

A TMDL modification may be required for new or expanding discharges in non-bacteria watersheds with no future growth allocation, or where the [above referenced tracking thresholds](#) have been exceeded. Regional staff should work with the Central Office TMDL Modeling Coordinator to determine if a TMDL modification is warranted. The steps in the TMDL modification process are included below.

1. Regional permit and TMDL staff must first verify the percent increase in the WLA needed to accommodate the permit modification. A percent increase greater than 1% may require consideration for remodeling the temporal and spatial pollutant loading impacts. Regional staff may work with the Central Office TMDL Modeling Coordinator to determine if remodeling the TMDL is necessary (remodeling steps are included Section F).
2. Central Office TMDL Modeling Coordinator will obtain EPA's preliminary approval of the TMDL revision:
  - Regional TMDL staff will prepare and submit a letter requesting EPA revision of the TMDL WLA to the DEQ Central Office (CO) TMDL Modeling Coordinator. The Central Office TMDL Modeling Coordinator will submit the TMDL revision package to EPA for preliminary approval. An example letter is provided as Attachment C.
3. Water Permit staff will submit the permit modification package to EPA as required by the DEQ Permit Manual for modification of a permit affected by a TMDL.
  - The permit fact sheet should state DEQ's rationale for supporting the change (to be obtained from the TMDL submittal letter. See Attachment C for an example).
  - The effluent limits page of the permit must indicate a) both the existing WLA and the new WLA, and b) that the existing WLA is in effect until such time as the TMDL revision is approved by the State Water Control Board.
  - The permit fact sheet should include a paragraph documenting both the overall WLA that is currently in the Water Quality Management Planning Regulation (9 VAC 25-720, here forward as Regulation) and the new overall WLA that will be effective following approval at the next State Water Control Board meeting.
  - With the permit limitation and the fact sheet language, permit staff may issue the permit upon receiving EPA's approval.

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<sup>8</sup>Required in accordance with the exemption requirements in § 2.2-4006.A.14 of Virginia's Administrative Process Act (APA) for adoption, amendment, or repeal of WLAs in the Water Quality Management Planning Regulation, 9VAC25-720.

- Following the State Water Control Board approval, permit staff will update the CEDS Water Permit module with effective date of Regulation change. This is also the effective date of new WLA.
  - If the permit is not at risk of expiring, Permit Staff may decide not to move forward with the special condition language and instead proceed with the formal regulatory process (outlined below) prior to reissuing the permit.
4. Watershed Program staff will proceed with the formal update to the Regulation.
    - Watershed Program staff shall give public notice and hold a public meeting to provide information to interested persons on the TMDL revision action. A public notice template is provided in Appendix D.
    - Prior to the next State Water Control Board meeting, Watershed Program staff shall public notice the amendment of the Regulation in the Virginia Register and on DEQ's website. Watershed Program staff will obtain State Water Control Board approval for TMDL revision and, if needed, regulatory amendment.
  5. Following the State Water Control Board approval, the Central Office TMDL Modeling Coordinator will obtain final approval for the TMDL revision from EPA TMDL staff.
  6. If the Permit did not include a special condition allowing issuance prior to the update to the Regulation, Water Permit staff may issue the permit upon the effective date of the amended regulation by the State Water Control Board.
  7. Upon the effective date of the amended regulation by the State Water Control Board and EPA approval, Regional TMDL staff shall update CEDS TMDL to reflect revised allocations:
    - On the CEDS TMDL "permit" screen for the existing permitted facility, update the "Current WLA" field with the revised value for the permit's wasteload. The Base WLA field does not change.
    - Because this is a formal modification, select NO for the "Interim Action" field.
    - After any permit addition or change, navigate back to the CEDS TMDL Equation screen and enter the new "Calculated Current WLA" total value into the equation's "Current Permitted WLA" field.

## **F. Remodeling of the TMDL**

Remodeling of a TMDL may be required when new or expanding discharges result in additional nonpoint source reductions. Regional staff should work with the Central Office TMDL Modeling Coordinator to determine if remodeling is warranted. The processing of these requests is similar to item E above, with the additions shown below.

1. If additional loading must be accommodated, Water Permit or Planning staff will request a TMDL remodeling effort to evaluate the impact of the additional loading on in-stream water quality. Any costs incurred by the TMDL remodeling effort will be paid for by the permittee.
2. If the modeling shows that the extent of the proposed TMDL modification does not require a change in the nonpoint source load allocations, TMDL and Water Permit staff will follow the procedures outlined in [steps E.1-7](#) above.
3. If the modeling shows that the extent of the proposed TMDL modification requires a change in the nonpoint source load allocations, a public meeting and comment period will be scheduled to present the proposed modifications to the public. EPA TMDL staff will be notified of the proposed change at the same time. A public notice template is provided in Appendix D. After the conclusion of the public comment period, follow the procedures outlined in [steps E.1-7](#) above.

## IV. Additional Considerations

For any modification that falls within a multi-DEQ region watershed, regional TMDL staff will collaborate throughout the process.

## V. References

EPA. 2013. Policy Memorandum on Bacteria Permit Review.

EPA. 2002. Policy Memorandum of Waste load Allocations.

VADEQ. 2004. Public Participation Procedures for Water Quality Management Planning. Guidance Memorandum (GM) 04-2010.

Mishra, Anurag. Estimating Uncertainty in HSPF based Water Quality Model: Application of Monte-Carlo Based Techniques. Doctoral dissertation, Biological Systems Engineering, Virginia Polytechnic and State University, Blacksburg, Virginia. July 2011.

Jia, Yanbing and Culver, Teresa. *Uncertainty Analysis for Watershed Modeling Using Generalized Likelihood Uncertainty Estimation with Multiple Calibration Measures*, Journal of Water Resources Planning and Management, Vol. 134, No. 2, March 1, 2008. ©ASCE, ISSN 0733-9496/2008/2-97–106. 2008.

Desai et al. *Mass Balance and Water Quality Modeling for Load Allocation of Escherichia coli in an Urban Watershed*. Journal of Water Resources Planning and Management, Vol. 137, No. 5, September 1, 2011. ©ASCE, ISSN 0733-9496/2011/5-412–427. 2011.

## VI. Attachments

A – EPA letter on bacteria permit review (August 2013)

B – EPA letter on TMDL modifications (August 2003)

C – Template for letter requesting EPA approval of TMDL modifications

D – Template for public notice of joint permit and TMDL modification

**Attachment A**  
**EPA letter on bacteria permit review (August 2013)**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION III**  
**1650 Arch Street**  
**Philadelphia, Pennsylvania 19103-2029**

Ms. Melanie Davenport, Director  
Office of Water Permits and Compliance Assistance  
Virginia Department of Environmental Quality  
629 East Main Street  
Richmond, Virginia 23219

AUG 15 2013

*Melanie*  
Dear Ms. Davenport:

On September 29, 1998 the Environmental Protection Agency (EPA) Region III requested that Virginia and other Region III states submit all National Pollutant Discharge Elimination System (NPDES) Total Maximum Daily Load (TMDL) related permits for review. EPA requested that all draft NPDES permit actions (issuance, reissuance, modification, and Notices of Intent for majors, minors and general permits) be submitted for review for facilities which discharge pollutants related to the TMDL established for that stream.

Based on our experience in reviewing TMDL-related permits and our discussion with you and Mr. Fred Cunningham on May 29, we are revising our waiver. EPA no longer wishes to receive minor individual wastewater treatment plant draft VPDES permits with effluent limitations addressing bacteria TMDL wasteload allocations (WLAs). These minor TMDL permits have been given wasteload allocations that were developed by multiplying the water quality standard times the design or operational flow.

We are continuing our evaluation of EPA's permit review process. In the interim, please continue to send EPA draft individual VPDES permits that incorporate WLAs for all other pollutant TMDLs.

If you have any questions, please contact me at 215-814-5422 or contact Mr. Mark D. Smith at 215-814-3105.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon M. Capacasa".

Jon M. Capacasa, Director  
Water Protection Division

**Attachment B**  
**EPA letter on TMDL modifications (August 2003)**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Mr. Larry Lawson, Director  
Water Program Coordination  
Virginia Department of Environmental Quality  
629 Main Street  
Richmond, VA 23219

AUG 12 2003

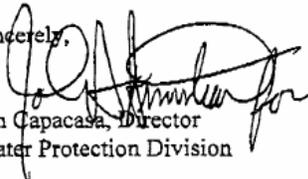
Dear Mr. Lawson:

Staff of the Virginia Department of Environmental Quality (DEQ) recently inquired about modifying a waste load allocation (WLA) on a United States Environmental Protection Agency (EPA) approved total maximum daily load (TMDL) in order to accommodate an expanded discharger. EPA believes that in certain scenarios, on a case by case basis, this type of modification can be made to a TMDL through the Virginia Pollutant Discharge Elimination System (VPDES) program without remodeling the TMDL.

In order to do this, the Commonwealth would need to present its rationale for the modification to the TMDL in the VPDES permit fact sheet to EPA. The fact sheet would need to identify the old and new WLA and TMDL load as well as identifying whether a change in pollutant concentration has been made. The fact sheet must identify other changes to the TMDL and conditions relevant to the TMDL or document that there are no other changes to the TMDL or the watershed. A separate TMDL modification request, including the above information, would need to be sent concurrently to EPA Region III's VA TMDL coordinator. If the modification is made to the TMDL, the permit may be issued containing effluent limits consistent with the modified TMDL.

A copy of the draft permit and proposed TMDL modification would have to be public noticed to insure that the public is cognizant of the TMDL modifications. The TMDL modification request must be provided to EPA at the commencement of the public comment period, providing both the Stakeholders and EPA with ample time and information to provide comments on both the permit and the changes to the TMDL. Lastly, a rationale documenting how these modifications will meet the requirements applicable to a TMDL, e.g. 40 CFR 130.7, must be included in the fact sheet. EPA will evaluate each modification on a case by case basis and respond, via an official approval or disapproval, to the Commonwealth within thirty-days of the final submission of the TMDL modification request. If you have any questions or comments concerning this letter, please feel free to contact Mr. Thomas Henry at (215) 814-5752.

Sincerely,

  
Jon Capacasa, Director  
Water Protection Division



*Printed on 100% recycled/recyclable paper with 100% post-consumer fiber and process chlorine free.  
Customer Service Hotline: 1-800-438-2474*

## Attachment C

### Template for letter requesting EPA approval of TMDL modifications

[replace text as appropriate]

Month xx, 20XX

EPA Region III TMDL Program Manager  
US EPA Region 3 - 3WP12  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Dear Mr./Ms. xxxx:

This letter is to request approval of modifications to the waste load allocation (WLA) and total maximum daily load (TMDL) for pollutant developed for xx Creek, xx County, Virginia. EPA Region III approved the pollutant TMDL addressing a [specify use] impairment for xx Creek in Month/Year.

The owner of the Name of Permitted Facility located in the xx Creek watershed recently requested an expansion of the design flow from xx mgd to yy mgd. DEQ proposes to modify the facility's waste load allocation to accommodate this expansion at a permitted [pollutant] concentration of xx mg/L. This equates to an allocation of xx lbs/yr.

Updating the pollutant TMDL in accordance with this request will not cause a water quality violation because [insert paragraph with description. Some examples are included below]

Example 1: Virginia's Water Quality Standards for [pollutant] require that treated effluent discharged into a receiving stream meet the [pollutant] criteria for the stream.

Example 2: the TMDL included modeling results to confirm that at 5 times the waste load allocation, the water quality standard would not be violated if permitted dischargers are required to discharge at a [pollutant] concentration of xx.

Example 3: the WLA for xx Creek increases by only approximately xx%, which is insignificant.

VA DEQ therefore proposes to replace tables x.y and a.b in the pollutant TMDL report with the following tables: [insert appropriate tables from TMDL report]

## **Attachment D**

### **Template for public notice of joint permit and TMDL modification**

Public Notice – Environmental Permit and TMDL Modification

PURPOSE OF NOTICE: To seek public comment on 1) a draft permit from the Department of Environmental Quality that will allow the continued release of treated wastewater into a water body in XXX County, Virginia and 2) a proposed modification to the completed Total Maximum Daily Load (TMDL) study for that same water body.

First Public Notice Issue Date: **(to be supplied by newspaper)**

PUBLIC COMMENT PERIOD: 30 days following first public notice issue date

PERMIT NAME AND NUMBER: Virginia Pollutant Discharge Elimination System Permit – Wastewater (VA00#####) issued by DEQ, under the authority of the State Water Control Board

NAME AND ADDRESS OF APPLICANT: XXXXX (e.g. Name XX Water and Sewer Authority; Address XX of Permit Applicant.

NAME AND ADDRESS OF FACILITY: NAME XX Regional STP; ADDRESS of Facility.  
(e.g. Details...This facility is an Exemplary Environmental Enterprise participant in Virginia's Environmental Excellence Program).

PROJECT DESCRIPTION – PERMIT REISSUANCE: Name XX Water and Sewer Authority has applied for reissuance of the referenced permit. The applicant proposes to release treated sewage at a rate of ## million gallons per day into XX Receiving Water in XXX County in the Upper Tributary Name XX...name XX watershed...receiving basin name XX. A watershed is the land area drained by a river and its incoming streams. The permit will limit the following pollutants to amounts that protect water quality: organic matter, solids, chlorine, bacteria, ammonia, dissolved oxygen, pH, nutrients, and others as appropriate, XX. Sludge from the treatment process will be dried and hauled by a contract hauler to be composted. This facility is subject to the requirements of 9 VAC 25-820 and has registered for coverage under the General VPDES Watershed Permit Regulation for XX Pollutant Discharge in XX Watershed in Virginia.

HOW TO COMMENT AND/OR REQUEST A PUBLIC HEARING FOR THE PERMIT REISSUANCE: DEQ accepts comments and requests for public hearing by e-mail, fax or postal mail. All comments and requests must be in writing and be received by DEQ during the comment period. Submittals must include the names, mailing addresses and telephone numbers of the commenter/requester and of all persons represented by the commenter/requester. A request for public hearing must also include: 1) the reason why a public hearing is requested; 2) a brief, informal statement regarding the nature and extent of the interest of the requester or of those represented by the requestor, including how and to what extent such interest would be directly and adversely affected by the permit; and 3) specific references, where possible, to terms and conditions of the permit with suggested revisions. DEQ may hold a public hearing, including another comment period, if public response is significant and there are substantial, disputed issues relevant to the permit.

CONTACT FOR THE PERMIT REISSUANCE:

Name: Regional Permit Writer Contact Name XX

Address: Name XX Regional Office, Address Regional Office XX

Phone: (###) ###-#### E-mail: NameXX@deq.virginia.gov Fax: (###) ###-####

The public may review the documents at the DEQ office named above.

PROJECT DESCRIPTION – NAME OF XX TMDL STUDY MODIFICATION located in XX CITY/COUNTY: This TMDL was approved by the Environmental Protection Agency on Approval Date ##/##/#### and can be found at the following website: <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx>. DEQ proposes to revise the TMDL to accommodate an increased flow discharge rate of ## million gallons per day. Updating the allocations and associated text in the Name of TMDL XX (pollutant such as bacteria) TMDL will protect and preserve water quality because Virginia's Water Quality Standards for [pollutant] require that treated effluent discharged into a receiving stream meet the [*pollutant*] criteria for the stream. This modification will not result in a change to the TMDL value but rather a reallocation of that value with respect to the noted permittee.

PUBLIC MEETING: The public meeting on the TMDL modification will be held on [provide the day, date, time and location]. [Provide the alternate meeting information in case of inclement weather].

HOW TO COMMENT ON THE TMDL MODIFICATION: The public comment period will begin on [*provide date*] and end on [*provide date – remember cannot end on a weekend or a state holiday. If it does, use the next business day*]. An advisory committee to assist in development of this TMDL modification will not be established. However, public comment on the use of an advisory committee is invited. Persons requesting the agency use an advisory committee and those interested in assisting should notify the DEQ contact person by the end of the comment period and provide their name, address, phone number, email address and their organization (if any). Notification of the composition of the panel will be sent to all applicants.

A component of a TMDL is the Waste Load Allocations (WLAs); therefore, this notice is provided pursuant to §2.2-4006.A.14 of the Administrative Process Act for any future adoption of the TMDL's associated WLAs. Information on the development of the TMDL modification is available upon request. Questions or information requests should be addressed to [*name of DEQ staff person(s) along with contact information (address, telephone number and e-mail address) if this staff person is different than the contact person listed below*]. Please note, all written comments should include the name, address, and telephone number of the person submitting the comments and should be sent to the DEQ contact person: [*name, address, telephone number and e-mail address of DEQ staff contact(s)*].